
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

SHANNON TECOKO MAYS,

§

Movant,

§

versus

CIVIL ACTION NO. 1:20-CV-244

UNITED STATES OF AMERICA,

§

Respondent.

§

**ORDER ADOPTING THE MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION**

Movant Shannon Tecoko Mays brought this Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255. The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, for consideration pursuant to the applicable laws and orders of this court. On December 15, 2022, the magistrate judge entered a Report and Recommendation in which he recommended denying the Motion. To date, the parties have not filed objections to the Report and Recommendation.

The court received and considered the Report and Recommendation of United States Magistrate Judge pursuant to such referral, along with the record, pleadings and all available evidence. After careful review, the court finds that the findings of facts and conclusion of law of the United States Magistrate Judge are correct.

Accordingly, the Report and Recommendation of the United States Magistrate Judge (#6) is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

Furthermore, Movant is not entitled to the issuance of a certificate of appealability. An appeal from a judgment denying federal habeas corpus relief may not proceed unless a judge issues a certificate of appealability. *See 28 U.S.C. § 2253; FED. R. APP. P. 22(b)*. The standard for granting a certificate of appealability, like that for granting a certificate of probable cause to appeal under prior law, requires the movant to make a substantial showing of the denial of a federal constitutional right. *See Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000); *Elizalde v. Dretke*, 362 F.3d 323, 328 (5th Cir. 2004); *see also Barefoot v. Estelle*, 463 U.S. 880, 893 (1982). In making that substantial showing, the movant need not establish that he should prevail on the merits. Rather, he must demonstrate that the issues are subject to debate among jurists of reason, that a court could resolve the issues in a different manner, or that the questions presented are worthy of encouragement to proceed further. *See Slack*, 529 U.S. at 483-84; *Avila v. Quartermann*, 560 F.3d 299, 304 (5th Cir. 2009). If the motion was denied on procedural grounds, the movant must show that jurists of reason would find it debatable: (1) whether the motion raises a valid claim of the denial of a constitutional right, and (2) whether the district court was correct in its procedural ruling. *Slack*, 529 U.S. at 484; *Elizalde*, 362 F.3d at 328. Any doubt regarding whether to grant a certificate of appealability is resolved in favor of the movant, and the severity of the penalty may be considered in making this determination. *See Miller v. Johnson*, 200 F.3d 274, 280-81 (5th Cir. 2000).

Movant has not shown that any of the issues raised by his claims are subject to debate among jurists of reason, or that a procedural ruling is incorrect. In addition, the questions presented by Movant are not worthy of encouragement to proceed further. Movant has failed to

make a sufficient showing to merit the issuance of a certification of appealability. Thus, a certificate of appealability will not be issued.

SIGNED at Beaumont, Texas, this 31st day of January, 2023.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE